IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 32119 of 2006(W)

PETITIONER:

PRASAD P.VARGHESE, PUKKUNNEL HOUSE,
PUTHUPADY P.O., MUVATTUPUZHA, ERNAKULAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.

2. THE ADDITIONAL DIRECTOR OF PUBLIC
INSTRUCTION (GENERAL), THIRUVANANTHAPURAM.

3. DR.P.V.JOSEPH, S/O.LATE P.J.VARKEY,
MANAGER, FR.JOSEPH MEMORIAL HIGHER SECONDARY
SCHOOL, PUTHUPADY (RESIDING AT XIX/256
PUKKUNNEL HOUSE, P.O.PUTHUPADY,
MUVATTUPUZHA- 686 673.

4. SUSAN VARGHESE, PUKKUNNEL HOUSE,
P.O.PUTHUPADY, MUVATTUPUZHA.

5. VALSA P.VARGHESE, RESIDING AT USHUS,
VADAKKAN HOUSE, OPP.T.H.HOSPITAL,
KOTHAMANGALAM- 686 691.

6. THANUSH GEORGE JOSEPH @ THANUSH,
S/O.DR.P.V.JOSEPH, PUKKUNNEL HOUSE,
PUTHUPPADY P.O., KOTHAMANGALAM TALUK.

7. THE ADDITIONAL DIRECTOR OF PUBLIC
INSTRUCTION (GENERAL) ,
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.

BY G.P.SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.32119 of 2006

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Dated this the 4th day of December, 2006.

JUDGMENT

A matter touching a corporate educational agency is pending in the form of a statutory appeal before the Director of Public Instruction. In Ext.P1 judgment of the Division Bench, there was a direction that the issue cannot be considered here, but has to be decided by the D.P.I. Complaining that a notice of hearing was not duly received, one of the parties to the matter pending before the D.P.I. moved this Court resulting in the issuance of Ext.P5 judgment saying that the D.P.I. has to necessarily afford opportunities to the parties of being heard.

2. The fifth respondent in that writ petition is the petitioner before me now. Going by the pleadings in the writ petition, his contention is

that the officer, who is going to hear the matter listed tomorrow, is the Additional Director of Public Instruction and such hearing will obliterate the directions contained in Exts.P1 and P5.

3. A thorough reading of Ext.P1 and Ext.P5 does not show that there was a choice made by this Court as to the identity of the officer, who should hear the matter.

4. "Director", is defined in Section 2(4) of the Kerala Education Rules, to mean the Director of Public Instruction, Kerala or such other officer or officers, who may, from time to time be appointed by the Government to exercise all or any of the powers of the D.P.I. That apart, the growing concept in administrative law is that it is an institutional hearing that is contemplated in such matters and hearing as well as the decision will have to be reflected by the files. So much so, I

have no doubt in my mind that the notice for personal hearing by the Additional D.P.I. is in no way, contrary to law.

5. Even in the earlier round, Ext.P2 was also issued for a hearing to be conducted by the Additional D.P.I. (General) and in spite of the petitioner being the fifth respondent in Ext.P5 writ petition, no contention was raised either by him or the petitioner in that case that the Additional D.P.I. is incompetent to hear the matter. I do not find any such contention in Ext.P6, which is the counter affidavit filed by the petitioner herein in Ext.P5 case.

6. The matter is listed before the proper officer tomorrow and I do not find any ground to interfere with the matter.

7. In the aforesaid circumstances, the

learned counsel for the petitioner, after arguing the matter for quite some time submits that the plea that the Additional D.P.I. cannot hear the matter is not being pursued and that the writ petition may be dismissed as withdrawn. This is recorded.

Writ Petition is hence dismissed as withdrawn.

Thottathil B.Radhakrishnan,
Judge.

sl.